

REMARKS

This application has been carefully considered in connection with the Examiner's Final Office Action dated July 13, 2007. By the Final Office Action of July 13, 2007, the Examiner rejected Claims 1-12 on various grounds discussed below.

Summary of Rejections

Claims 1-12 were pending at the time of the Final Office Action.

Claim 1 was objected for informalities.

Claims 9, 10 and 12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Lenz, US Patent 6,029,196.

Claims 1, 6 and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lenz, US Patent 6,029,196, in view of Fletcher et al., US Patent 6,009,274.

Claims 2-5 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lenz, US Patent 6,029,196, in view of Fletcher et al., US Patent 6,009,274, and in further view of Sandahl et al., US Patent 6,098,098.

Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Lenz, US Patent 6,029,196, in view of Fletcher et al., US Patent 6,009,274, in view of Kaplan et al., US Patent 6,141,339.

Summary of Response

Claim 1 is currently amended.

Claims 3-10 remain in original format.

Claims 2 and 11-12 have previously been presented.

The Applicants traverse the rejections and request reconsideration. Remarks and Arguments are provided below.

Summary of Claims Pending

Claims 1-12 are currently pending following this response.

Claim Objections

Claim 1 has been amended as suggested in the Final Office Action to overcome the informalities. Applicants respectfully request the objection to Claim 1 be withdrawn.

Request for a New Final Office Action

In reviewing the "Response to Arguments" in section 9 of the Final Office Action, it appears that the Final Office Action did not address the arguments presented with regard to claim 4 or claim 6. Also, it appears that the Final Office Action did not address the argument presented with regard to claim 10 which is repeated herein in the arguments of section VIII. Applicants respectfully request a new Final Office Action addressing the arguments that were presented in the response filed on April 24, 2007 and directed to the limitations of Claims 4, 6, and 10. These and other arguments are repeated herein below.

Applicants further note that it appears that a new grounds of rejection was given for claim 11 that was not necessitated by amendment. In the Office Action dated February 23, 2007, claim 11 was rejected under Lenz in view of Sandahl. Neither of claims 10 or 11 were amended in the response dated April 24, 2007. The Final Office Action has rejected claim 11 under Lenz in view of Fletcher and in further view of Sandhal.

Claim Rejections

As described in paragraphs 0035-0041, the pending application is directed to changing or updating parameters in a configuration file. The parameters in the configuration file are used by functional modules in a customer premise telecommunications hub. The parameters in the configuration file may be changed by rebooting the hub. Because rebooting may require action to be taken at the location of the hub or may interrupt operation of the hub, the parameters are dynamically updated, if possible, without rebooting the hub. Upon the hub receiving and storing an updated configuration file a process of checking whether parameters in the updated configuration file have changed, and if so whether they can all be changed dynamically or if a reboot is required for changing them. If all of the parameters that have been changed can be changed dynamically, then they are updated dynamically. Otherwise, the hub is rebooted.

An update module 53 may sequentially call a "check" function at the functional modules of the hub. The check function is the process of checking a new parameter against an old parameter and determining whether the parameter is different and if so whether it can be changed dynamically or requires a reboot for changing. Each functional module of the hub may perform the check function to determine whether any parameters with affect the functional module have been changed. For each parameter that has been changed the check function further determines whether the parameter can be changed dynamically or requires a reboot of the hub.

If the check function determines that none of the functional modules have parameters that have been changed require a reboot of the hub, then the update module 53 may call an "update" function at the functional modules. The update function is the process of storing a local copy of the new parameters and operating with the new parameters. Each functional module of the hub may perform the update function by reading the configuration parameters from the configuration file, storing a local copy of the new parameters, and operating with the new parameters. Otherwise a reboot is needed to update the functional modules with the changed parameters in the configuration file.

Lenz discloses an automatic client configuration system. A client may contact a server at startup for configuration information. The server may return the configuration file that is used by the client to configure the client system. Upon receiving the configuration file, the client executes it to configure various aspects of the client (FIGS. 1-7; column 3, lines 11-12, 23-24). Also, the server may query the client for information such as file version numbers. If the server determines that the client needs file updates, the server sends new files to the client. The client may replace the existing files with the new files sent by the server. Lenz does not disclose identifying parameters within the configuration file that are different from locally stored parameters or determining whether each of the changed parameters can be dynamically changed. These and other arguments will be discussed in detail below.

Claim Rejections Under Section 102

Claims 9, 10 and 12 were rejected under 35 U.S.C. 102(b) as being anticipated by Lenz US Patent 6,029,196.

Claim 9:

I. Lenz does not disclose a customer premises telecommunications hub.

In the response filed on April 27, 2007, Applicants argued that the client of Lenz is not a customer premises telecommunications hub. The Final Office Action responded to this argument in section (A) of the Response to Arguments section. In section (A), the Final Office Action appears to interpret the disclosure of Lenz that because there is communication between the client (interpreted as a communications hub) and the server then the presence of a communications hub is inherent.

Applicants note that Lenz does not directly disclose that the client is a customer premises telecommunications hub. MPEP 706.02(IV) indicates that for rejections under 35 U.S.C. 102, "Any feature not directly taught must be inherently present." Further, MPEP 2163.07(a) notes, "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is **necessarily present** in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted) (emphasis added). In other words, unstated elements in a reference are inherent when they exist as a "matter of scientific fact". Constant v. Advanced Micro

Devices, Inc., 848 F.2d 1560, 7 U.S.P.Q.2d 1057 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988) and Hughes Aircraft Co. v. United States, 8 U.S.P.Q.2d 1580 (Ct. Cl. 1988).

Applicants respectfully submit that a customer premises telecommunications hub is not necessarily present in Lenz, nor is it a matter of scientific fact that the client of Lenz is a customer premises telecommunications hub. A search of Lenz did not result in any disclosure of a customer premises. Applicants respectfully submit that it is not a matter of scientific fact that the client of Lenz is a customer premises client.

MPEP 2173.05(a)(III) states:

"In applying the prior art, the claims should be construed to encompass all definitions that are consistent with applicant's use of the term. See *Tex. Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2d 1812, 1818 (Fed. Cir. 2002). It is appropriate to compare the meaning of terms given in technical dictionaries in order to ascertain the accepted meaning of a term in the art. In re Barr, 444 F.2d 588, 170 USPQ 330 (CCPA 1971). >See also MPEP § 2111.01.<"

The Federal Standard 1037C Glossary of Telecommunications Terms defines the term "hub" as "a device that accepts a signal from one point and redistributes it to one or more points." Also, the website WhatIs.com provides a common definition of the term "hub" as "a place of convergence where data arrives from one or more directions and is forwarded out in one or more other directions". While the client of Lenz is disclosed to receive data from the server, Lenz does not provide any disclosure that the client then redistributes or forwards the data on to one or more points or in one or more directions. Applicants note that while the client of Lenz is also disclosed to be able to send data to

the server, this is not disclosure of redistributing or forwarding data that has arrived at the client to the server. Therefore it is clear that the client of Lenz is not a "hub", much less a customer premises telecommunications hub as claimed. Further, Applicants respectfully submit that a hub is not necessarily present in Lenz, nor is it a matter of scientific fact that the client of Lenz is a hub.

II. Lenz does not disclose a check function.

Claim 9 recites, "a plurality of functional program modules ..., each functional module ... having a check function" and, "a configuration update module adapted ... to call the check function ... in each functional module." As discussed above and described in paragraph 0037 of the disclosure, the check function determines whether any parameters which affect a functional module have been changed and, for each parameter that has been changed, the check function further determines whether the parameter can be changed dynamically or requires a reboot of the hub.

The Final Office Action relied on Fig. 4 and Fig. 12 of Lenz to teach the limitations claimed in claim 9. As discussed in column 3, lines 40-55, Fig. 4 of Lenz discloses an embodiment where a client 401 may request remotely stored configuration settings through LDAP commands on the JSC file 403. The request may include a user's E-mail address that may be passed to the LDAP server 405 as a key to request a given user's settings. Information returned from the LDAP server 405 may include other settings, such as the user's mail server name. This embodiment is a more specific example of the other embodiments of Lenz that disclose for a client to request configuration information from a server, the server returns the configuration information

corresponding to the requesting client, and the client executes the returned configuration information to configure various aspects of the client.

Fig. 12 of Lenz and column 5, line 62- column 6, line 10 describe the functionality of the server. The process in column 5, line 62 – column 6, line 3 describes the functions performed on the server to retrieve the appropriate configuration information based on a client request for configuration information and to send the retrieved configuration information to the client. Applicants respectfully submit that disclosure of functionality provided by the server of Lenz does not provide any disclosure of the limitations of the customer premises telecommunications hub claimed in Claim 9.

Applicants respectfully submit that the cited portions of Lenz do not disclose any function to determine whether any parameters within a configuration file have changed. Lenz simply executes the returned configuration information without any check of whether there are changes in individual parameters of the returned configuration information. Further, since there isn't any disclosure of checking whether individual parameters of the configuration information have changed then there is also no disclosure of determining whether parameters that have been changed require a reboot.

III. Lenz does not disclose an update function.

Claim 9 recites, "a plurality of functional program modules ..., each functional module ... having an update function" and, "a configuration update module adapted ... to call the ... update function in each functional module." As discussed above and described in paragraph 0039 of the disclosure, the update function reads configuration parameters from the new configuration file which affect the functional module and stores

a local copy of the new parameters. The updated functional module operates with the new parameters.

The Final Office Action relied upon sections of Lenz described above in the arguments of section I. Applicants respectfully submit that the cited portions of Lenz do not disclose any function to copy parameters from the returned configuration information that affect a functional module and store a copy of the new parameters local to the functional module such that the functional module operates with the new parameters.

IV. Lenz does not disclose a plurality of functional program modules operating with parameters contained in the configuration file.

Claim 9 recites, "a customer premises telecommunications hub, comprising ... a microprocessor having a plurality of functional program modules operating with parameters contained in the configuration file, each functional program module storing configuration file parameters which affect its operations." As described in paragraph 0016 of the disclosure, the functional program modules may include a control module 51 that controls the telephony functions, an Ethernet control module 67, and ATM control module 55 that controls the communications with the network, for example.

The Final Office Action relied upon sections of Lenz described above in the arguments of section I. Applicants respectfully submit that the cited portions of Lenz do not disclose that the client 401 has a plurality of functional program modules. Applicants respectfully request that particular structures of Fig. 4 or citations of descriptions of Fig. 4 that are being interpreted as the claimed plurality of functional program modules be particularly pointed out. Further, Applicants respectfully submit that Lenz does not disclose a configuration file stored at the client 401 where the

functional program modules operate with parameters contained in the configuration file. Still further, Applicant respectfully submits that Lenz does not disclose that each of the functional program modules store parameters of the configuration file that affect their operations.

V. Lenz does not disclose a configuration update module.

Claim 9 recites, "a customer premises telecommunications hub, comprising ... a configuration update module adapted to receive a new configuration file ... and to call the check function and the update function in each functional module."

The Final Office Action relied on the disclosure of Fig. 12 of Lenz to read on these claim limitations. As noted above, Fig. 12 shows the processes that may be performed by the server. In contrast, the limitations of the configuration update module are recited as part of a customer premises telecommunications hub, which the Final Office Action has interpreted as the client in the disclosure of Lenz. It is unclear how processes performed on the server may be interpreted as functionality of the client.

Applicants respectfully submit that Fig. 12 and the corresponding description in Lenz do not disclose that the server calls the check function and the update function as claimed. Further, none of the processes of Fig. 12 call any functions to "each functional module" as claimed.

Claim 10:

Claim 10 includes limitations substantially similar to the limitations discussed in section I above. For at least the reasons established above in sections I, Applicants respectfully submit that independent Claim 10 is not disclosed by Lenz and respectfully request allowance of this claim.

VI. Lenz does not disclose comparing parameters of the hub to parameters in the new configuration file and identify which parameters are different.

Claim 10 recites, "comparing parameters controlling operation of the customer premises telecommunications hub to parameters contained in the new configuration file and identifying parameters which are different."

In the response filed on April 27, 2007, Applicants argued that Lenz does not teach or suggest any step of identifying parameters in a new configuration file that are different from existing parameters stored in a customer premises telecommunications hub. The Final Office Action responded to this argument in section (B) of the Response to Arguments section. In section (B), the Final Office Action relied on disclosure of the limitations of Claim 1 in Column 6, lines 28-35 of Lenz. The Final Office Action summarizes the process of Claim 1 of Lenz as updating the old files with the new files. The Final Office Action interprets that the updating as inherently identifying parameters in a new file that are different from existing parameters.

Applicants note that Lenz does not directly disclose that parameters of the configuration file received from the server are compared with parameters controlling operation of the client and identifying parameters which are different. Lenz only discloses in column 3, lines 11-12 that the configuration file is executed upon receipt. MPEP 706.02(IV) indicates that for rejections under 35 U.S.C. 102, "Any feature not directly taught must be inherently present." Further, MPEP 2163.07(a) notes, "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is **necessarily present** in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be

established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted) (emphasis added). In other words, unstated elements in a reference are inherent when they exist as a "matter of scientific fact". Constant v. Advanced Micro Devices, Inc., 848 F.2d 1560, 7 U.S.P.Q.2d 1057 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988) and Hughes Aircraft Co. v. United States, 8 U.S.P.Q.2d 1580 (Ct. Cl. 1988).

Applicants respectfully submit that performing a comparison of parameters in the configuration file received from the server with parameters controlling operation of the client and identifying parameters which are different is not necessarily present in Lenz. Further, it is not a matter of scientific fact that configuring the client using the configuration file received from the server has to perform a comparison of parameters in the configuration file received from the server with parameters controlling operation of the client and identifying parameters which are different. For example, as alluded to in the interpretation provided in the argument of section (B) of the Final Office Action, the configuration file may simply overwrite or swap out the old files with the new files to perform an update without ever performing a comparison or identification of differences as claimed in Claim 10.

VII. Lenz does not disclose identifying parameters which can be changed dynamically.

Claim 10 recites, "identifying parameters which can be changed dynamically".

In the response filed on April 27, 2007, Applicants argued that Lenz does not teach or suggest making any determination of whether parameters may be changed

dynamically. The Final Office Action responded to this argument in section (C) of the Response to Arguments section. In section (C), the Final Office Action relied on disclosure in Column 4, lines 28-42 of Lenz. The Final Office Action likens the disclosure of an administrator automatically pushing out software updates that he wants to a determination of whether parameters may be changed dynamically. Applicant respectfully submits that this disclosure merely teaches that an administrator can identify which software to update. This disclosure does not teach or suggest identifying parameters which can be changed dynamically as required by Claim 10.

The rejection of Claim 10 in the Final Office Action relied on disclosure of column 6, lines 28-29. This disclosure is merely a limitation of Claim 1 of an operation performed on the server. The server identifies a configuration file that is associated with the client. Applicants note that this is an identification of a file, not an identification of parameters within a file. Further, there is no teaching or suggestion of identifying parameters which can be changed dynamically.

As disclosed in paragraph 0037 of the disclosure, each parameter used in a module is designated as to whether or not it can be dynamically changed or requires a system reboot. Therefore, some parameters can be dynamically changed and other parameters can not be dynamically changed and require a system reboot. Lenz does not provide any such disclosure of some parameters being able to be dynamically changed and others not being able to be dynamically changed. Therefore, Lenz does not provide any disclosure of identifying parameters which can be dynamically changed.

VIII. Lenz does not disclose determining if all parameters which are different can be dynamically changed.

Applicants note that this argument was identically presented in the response filed on April 24, 2007. Applicants further note that it does not appear that the Final Office Action addressed this argument. Applicants respectfully request a new Final Office Action addressing this argument.

The Examiner asserts that Lenz teaches means for, if all parameters, which are different, can be changed dynamically, dynamically updating parameters to those contained in the new configuration file, citing col. 5, lines 41-44.

As noted above, Lenz teaches nothing about distinguishing between parameters which can be changed dynamically and those that can be changed only by rebooting. Lenz could not teach a step of updating based on such distinction. The cited portion of Lenz discusses only the transfer of parameters from the server to the client PC. It has nothing to do with how the client PC changes the parameters internally.

While Lenz provides a number of teachings concerning transferring parameters and files between a server and a client PC, Lenz does not provide any teachings about how the new parameters or files are actually installed or implemented in the client PC, much less in a customer premises telecommunications hub.

IX. Lenz does not disclose conditionally performing a dynamic update of parameters.

Claim 10 recites, "if all parameters which are different can be changed dynamically, dynamically updating parameters to those contained in the new configuration file." Therefore, Claim 10 requires that the condition be met that all of the parameters that have been identified as different have also been identified as

parameters which can be changed dynamically prior to dynamically updating the parameters.

A search of Lenz for the term "dynamic" in the detailed description only resulted in discussion related to Fig. 3 in column 3, lines 26-39 and discussion related to Fig. 4 in column 3, lines 40-48. In column 3, lines 40-48, Lenz discloses that the JSC file is more flexible with the addition of LDAP commands that allow set configuration data to be dynamically set rather than statically set. Applicants note that there is no disclosure of any conditions being met prior to dynamically setting configuration data, much less disclosure of a condition that all of the parameters that have been identified as different have also been identified as parameters which can be changed dynamically prior to dynamically updating the parameters.

The condition required by Claim 10 is further emphasized through the limitations of Claim 11, where the other side of this condition is defined as "if any parameter which is different cannot be changed dynamically, causing the customer premises telecommunications hub to reboot."

Dependent Claim 12 depends directly or indirectly from independent Claim 10 and incorporates all of the limitations thereof. Accordingly, for at least the reasons established in sections I and VI-IX above, Applicants respectfully submit that Claim 12 is not disclosed by Lenz and respectfully request allowance of this claim.

Claim Rejections Under Section 103

Claims 1, 6 and 7 stand rejected as being unpatentable over Lenz, U.S. Patent 6,029,196, in view of Fletcher et al., U.S. Patent 6,009,274.

Claim 1:

Claim 1 includes limitations substantially similar to the limitations discussed in sections I and VI-IX above. For at least the reasons established above in sections I and VI-IX, Applicants respectfully submit that independent Claim 1 is not disclosed by Lenz and respectfully request allowance of this claim.

X. Fletcher does not cure the deficiencies of Lenz.

The Final Office Action relied on Fletcher to provide disclosure of installing a new version of a software component without rebooting system software. Applicants respectfully submit that this disclosure does not cure the deficiencies of Lenz detailed in the arguments of sections I and VI-IX.

Dependent Claims 6 and 7 depend directly or indirectly from independent Claim 1 and incorporate all of the limitations thereof. Accordingly, for at least the reasons established in sections I and VI-IX above, Applicants respectfully submit that Claims 6 and 7 are not taught or suggested by Lenz in view of Fletcher and respectfully request allowance of these claims.

Claim 6:

Applicants note that this argument was identically presented in the response filed on April 24, 2007. Applicants further note that it does not appear that the Final Office Action addressed this argument. Applicants respectfully request a new Final Office Action addressing this argument.

The Examiner asserts that Lenz teaches a method according to claim 1 wherein: said step of updating parameters is performed when said customer premises telecommunications hub is in an idle state, citing col. 4, lines 40-42.

Lenz teaches nothing about updating parameters when a client PC is in an idle state.

The cited portion of Lenz reads: "To update all the user configurations, the administrator needs to edit only a single script file on the server and all of the clients automatically configure themselves." This has nothing to do with whether the clients update themselves in idle state. This does demonstrate that the teachings of Lenz relate to efficient transfer of configuration files to a plurality of client PCs. The present invention relates to an improved method of updating the parameters within one customer premises telecommunications hub after a new configuration file has been transferred to the customer premises telecommunications hub.

Applicants submit that claim 6 is clearly patentable over Lenz.

Claims 2-5 and 11 stand rejected as being unpatentable over Lenz, U.S. Patent No. 6,029,196 in view of Fletcher, et al., U.S. Patent No. 6,098,098, and in further view of Sandahl et al., US Patent 6,098,098.

Claims Depending from Claim 1:

Dependent Claims 2-5 depend directly or indirectly from independent Claim 1 and incorporate all of the limitations thereof. Accordingly, for at least the reasons established in sections I and VI-IX above, Applicants respectfully submit that Claims 2-5 are not taught or suggested by Lenz in view of Fletcher and in further view of Sandahl and respectfully request allowance of these claims. Applicants respectfully submit that Sandahl does not cure the deficiencies of Lenz in view of Fletcher.

Claim 4:

Applicants note that this argument was identically presented in the response filed on April 24, 2007. Applicants further note that it does not appear that the Final Office Action addressed this argument. Applicants respectfully request a new Final Office Action addressing this argument.

The Examiner asserts that Lenz teaches a method according to claim 3 wherein: if the parameters, which are different, can be changed dynamically, said update module issues an update function call to each of the other functional modules, citing Fig. 11.

As noted above, Lenz teaches nothing about determining which, if any, new parameters can be changed dynamically as opposed to requiring a reboot. It can not condition issuance of an update function call based on a determination it does not make.

Fig. 11 and its description discuss specifics of the process shown more generally in Fig. 9. That process starts with step 901, "Startup." Startup and reboot mean the same thing. The process of Fig. 11 is part of a reboot process. As taught in the present specification, it is known to update parameters as part of rebooting. The present invention is directed to avoiding rebooting if possible, by updating parameters dynamically, i.e. without rebooting. Lenz provides no teaching of dynamic updating.

Applicants submit that claim 4 is clearly patentable over Lenz.

Claims Depending from Claim 10:

Dependent Claim 11 depends directly or indirectly from independent Claim 10 and incorporates all of the limitations thereof. Accordingly, for at least the reasons established in sections I and VI-IX above, Applicants respectfully submit that Claim 11 is

not taught or suggested by Lenz in view of Fletcher and in further view of Sandahl and respectfully request allowance of this claim.

Claim 8 stands rejected as being unpatentable over Lenz, U.S. Patent 6,029,196, in view of Fletcher et al., U.S. Patent 6,009,274, in view of Kaplan et al., U.S. Patent 6,141,339.

Claims Depending from Claim 1:

Dependent Claim 8 depends directly or indirectly from independent Claim 1 and incorporates all of the limitations thereof. Accordingly, for at least the reasons established in sections I and VI-IX above, Applicants respectfully submit that Claim 8 is not taught or suggested by Lenz in view of Fletcher and in further view of Kaplan and respectfully request allowance of this claim. Applicants respectfully submit that Kaplan does not cure the deficiencies of Lenz in view of Fletcher.

CONCLUSION

The Commissioner is hereby authorized to charge payment of any further fees associated with any of the foregoing papers submitted herewith, or to credit any overpayment thereof, to Deposit Account No. 21-0765, Sprint.

Applicants respectfully submit that the present application as amended is in condition for allowance. If the Examiner has any questions or comments or otherwise feels it would be helpful in expediting the application, he is encouraged to telephone the undersigned at (972) 731-2288.

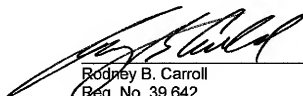
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